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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,635	07/31/2001	Seiji Kobayashi	2001_1083A	1587

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EXAMINER

GRAYSAY, TAMARA L

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/917,635	Applicant(s) KOBAYASHI	
	Examiner Tamara L. Graysay	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "each predetermined personal valuation subject group" in lines 14-15. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi (JP-10097568) in view of Britt (article, Designing a performance-based compensation plan).

Kobayashi discloses a method including:

The step of obtaining a total valuation mark of each valuate is a step that requires consideration of an employee's value relative to other employees. Kobayashi includes consideration of the rating period and/or previous bonus periods and the employee's grade level [0001].

The step of calculating a tentative allowance based is a step that computes an initial division of the funds available for allowances. The examiner takes Official notice that dividing available funds into departments or groups is common accounting practice as it relates to fiscal planning. Such a division of available funds would be used to ensure funds are available for distribution during a term certain, e.g., particular quarter or fiscal year. Therefore, it would have been obvious to one of ordinary skill in the business planning art to divide available funds into groups based on a term certain in order to ensure that funds are distributed properly and that funds are available for distribution during the term certain.

The step of calculating a change in pertinent term allowance is a step that uses ratios to divide available funds based at least in part on past divisions. Kobayashi teaches a progressive change in an allowance system [problem to be solved] and [the evaluation is mathematically connected to a salary or bonus 0004-0005]. Further, Kobayashi teaches comparing funds for certain periods of time with past periods of time [0018]. The use of historical data ratios allows for cost of living adjustments and changes in workload for example while determining adequate funds. Therefore, Kobayashi teaches the step of calculating based on a ratio between past allowances and the term certain allowance in order to take into consideration past division of available funds when dividing funds during a current period.

The step of calculating an allowance for each valuate is a step that determines a valuate total by increasing/decreasing the prior valuate amount by the amount calculated in the previous step. Kobayashi teaches summing columns for example [0018]. For

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example, a new salary amount is determined by adding the past salary to the salary increase/decrease. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made in order to determine a total amount.

Kobayashi lacks the calculating a tentative allowance based on a pertinent term.

Britt teaches changing a compensation structure over a two to four year period rather than overnight in order to allow for employee education and acceptance. Britt further teaches the relationship of value to an organization being tied to incentive compensation, i.e., volume targets for sales-related employees, increased production for loan processor, etc.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kobayashi to apply the gradual adjustment calculation principle to the adjustment of bonuses such as taught by Britt, in order to allow time for employee education and acceptance.

The combination lacks a computer-readable medium. The examiner takes Official notice that the use of a computer-readable medium to store formulas is common and such an arrangement would permit quicker and more accurate execution of the formula by a computer, rather than manually. Furthermore, it is well settled that it is not "invention" to broadly provide a mechanical or automatic means to replace manual

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activity which has accomplished the same result. In re Verner, 120 USPQ 192. Thus, storing the formulas to perform calculation operations on a computer-readable medium would have been obvious to one of ordinary skill in the art at the time the invention was made in order to perform the calculations quicker and more accurately.

Response to Arguments

3. Applicant's arguments filed 28 November 2005 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Folger (article, Procedural justice) teaches reward distribution procedures.

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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

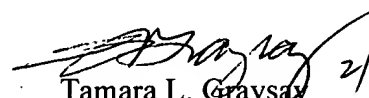
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is 571-272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo, can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 2/6/06
Tamara L. Graysay
Examiner
Art Unit 3636

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